

1 Anoush Hakimi (SBN 228858)

2 anoush@handslawgroup.com

3 Peter Shahriari (SBN 237074)

4 peter@handslawgroup.com

5 Kyle Wilson (SBN 323888)

6 kyle@handslawgroup.com

7 **THE LAW OFFICE OF HAKIMI & SHAHRIARI**

8 1800 Vine Street

9 Los Angeles, CA 90028

10 Telephone: (888) 635-2250

11 Facsimile: (213) 402-2170

12 Attorneys for Plaintiff,

13 **LASANDRA PRICE**

14 LASANDRA PRICE, an individual,

15 Plaintiff,

16 v.

17 RANCHO MALL, LLC, a Delaware
18 limited liability company; and
19 DOES 1-10,

20 Defendants.

21 Case No.

22 **COMPLAINT FOR VIOLATIONS
OF: AMERICANS WITH
DISABILITIES ACT OF 1990, 42
U.S.C. § 12181, *et seq.*; UNRUH
CIVIL RIGHTS ACT, CALIFORNIA
CIVIL CODE § 51, *et seq.***

23 **DEMAND FOR BENCH TRIAL**

24

25

26 **Landlords demonize access cases and often deviously foist the overdue
27 remediation costs onto business owners who lease their land, all the while**

protesting in litigation, tying up the Court. The secret is out.

Plaintiff LaSandra Price (hereinafter referred to as “Plaintiff”) complains of Defendant Rancho Mall, LLC, a Delaware limited liability company; and Does 1-10 (each, individually a “Defendant,” and collectively “Defendants”), and alleges as follows:

I. INTRODUCTION: THE CROSSROADS OF CIVIL RIGHTS AND PRIVATE INFRASTRUCTURE REFORM

The landlord community has demonized ADA lawsuits in order to avoid compliance with Federal law. Landlords often use heavy handed leases which unfairly and secretly foist the responsibility of access law compliance of *their* property onto the shoulders of the unfortunate business owner/lessor who does not see the landmine in the lease. Inevitable lawsuits by customers *against landlords who own the non-compliant property* asking for legally required features in the property are then mischaracterized as attacks on the unfortunate business owner/lessor by dastardly customers. This cynical and unfair tactic has caused administrative headaches for the courts which must deal with emotional and unnecessary litigation and has obscured the truth. In reality, the landlords' goal is to save money by failing to bring the property into compliance and then when caught, blame the disabled customer and force the remediation costs upon the business

1 owner. The landlord is the predator. Here are the facts:

2 Mass Non-Compliance with the ADA. Many places are dilapidated and need
3 remediation. Non-compliance is rampant. Many if not most places are not fully
4 compliant with access laws. Many properties have terribly dilapidated pavement,
5 vandalized or missing access signage, incorrectly designed paths and have
6 restrooms which are unusable for disabled people. These problems are common and
7 egregious in many places.

8 No Government Oversight. The government will not provide inspections or
9 monitoring of the vast swaths of privately owned land and buildings used by
10 people. Incorrectly designed features will stay non-compliant. Many features will
11 also erode with time from long term heavy usage, weather/climate ware, vandalism,
12 etc.

13 Private Infrastructure Reform. The remediation and improvement to these
14 properties is good for business. Improvements which better the land and bring the
15 property into compliance with Federal law increase the property value and make the
16 areas more appealing for customers.

17 Remediation Costs are Tiny Compared to the Wealth of the Landlord.

18 The costs of remediation in many instances are a tiny fraction of the income
19 of most landlords, who typically own multiple commercial properties and are in the
20 landlord business. The landlord that owns one property is indeed a rare creature in
21

California. The value of the building, improvements and land for most properties, coupled with other properties owned, dwarfs the negligible expenses of remediation, which incidentally should have been made already without the need for a lawsuit. The lawsuit is an unfortunate byproduct of the landlord's original refusal to follow the law. The landlord saved and avoided those costs until the case.

Need for these cases. Despite the history of access cases there is still mass non-compliance. The deterrent effect has not been enough to bring about remediation such that these cases discontinue and are growing. Until the legislative intent arises to change the law so that government inspectors appear on the streets monitoring and enforcing access laws, these cases will be essential and important to giving access to all and to improving the landscape for all customers.

II. PARTIES

1. Plaintiff LaSandra Price suffers from Parkinson's Disease. She has trouble walking and standing. She shakes. She is physically weak. She uses a wheelchair to get around. Plaintiff has been issued a blue permanent disability Disabled Person Parking Placard by the State of California. Plaintiff is a disabled person under the California Unruh Civil Rights Act (UCRA) (*see* Cal. Civ. Code §§ 51, *et seq.*, 52, *et seq.*), the Americans with Disabilities Act (ADA) (*see* 42 U.S.C. § 12102, *et seq.*), and other statutory laws which protect the rights of

1 “disabled persons.”

2 2. Defendant Rancho Mall, LLC, a Delaware limited liability company,
3 owns/owned the property (“Property”) located at 12379 N. Mainstreet, Rancho
4 Cucamonga, CA 91739, at all relevant times.

5 3. There is a business establishment on the Property named “The
6 Cheesecake Factory,” (hereinafter, “the business”).

7 4. The business is a public accommodation as defined by 42 U.S.C. §
8 12181(7).

9 5. DOES 1 through 10 were at all relevant times lessors, lessees, property
10 owners, subsidiaries, parent companies, affiliates, employers, employees, agents,
11 corporate officers, managers, principles, and/or representatives of Defendants.
12 Plaintiff is unaware of the true names and capacities of Defendants sued herein as
13 DOES 1 through 10, inclusive, and, therefore, sues those Defendants by fictitious
14 names. Plaintiff requests that the Court grant leave to amend this complaint to
15 allege the true names and capacities when determined by whatever source.

16 6. Defendants, at all relevant times, were relevant to this action; were the
17 owners, franchisees, franchisors, lessees, lessors, general partners, limited partners,
18 agents, affiliates, employees, employers, representative partners, subsidiaries,
19 partner companies, and/or joint venturers of the remaining Defendants; and were
20 acting within the course and scope of that relationship. Upon information and
21
22
23
24
25
26
27
28

1 belief, Plaintiff alleges that each of the Defendants gave consent to, ratified, and/or
2 authorized the acts alleged of each of the remaining Defendants.
3

4 7. Plaintiff visited the public accommodations owned, leased, and/or
5 operated by Defendants with the intent to purchase and/or use the goods, services,
6 facilities, privileges, advantages, and/or accommodations offered by Defendants.
7

8 **III. JURISDICTION & VENUE**

9 8. This Court has subject matter jurisdiction over this action pursuant to
10 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3) & (a)(4) for violations of the ADA.
11

12 9. Pursuant to supplemental jurisdiction, an attendant and related cause of
13 action, arising from the same nucleus of operative facts, and arising out of the same
14 transactions, is also brought under the UCRA, which expressly incorporates the
15 ADA.
16

17 10. Venue is proper in this Court pursuant to 28 U.S.C. § 1331(b) because
18 the real property which is the subject of this action is located in this district, and
19 Plaintiff's cause of action arose in this district.
20

21 **IV. FACTS**

22 11. The Property is a facility which is open to the public and includes
23 business establishments.
24

25 12. The Property has been newly constructed and/or underwent
26 remodeling, repairs, or alterations after January 26, 1992. Defendants have failed
27 to comply with California access standards which applied at the time of each new
28

1 construction and/or alteration, and/or failed to maintain accessible features in
2 operable working condition.
3

4 13. Plaintiff visited the Property during the relevant statutory period on
5 four (4) separate occasions, on October 2020, December 2020, March 2021 and
6 March 2021 to patronize the business on the Property.
7

8 14. Defendants did not offer persons with disabilities with equivalent
9 facilities, privileges, and advantages offered by Defendants to other patrons.
10

11 15. Plaintiff encountered barriers, both physical and intangible, that
12 interfered with, and denied, Plaintiff the ability to use and enjoy the goods, services,
13 privileges, and/or accommodations offered at the Property.
14

15 16. Parking is one of the facilities, privileges, and advantages offered by
16 Defendants to patrons of the Property.
17

18 17. However, there was no accessible parking for disabled patrons at the
19 Property. The parking space(s) designated for disabled persons did not comply
20 with the ADA.
21

22 18. The parking area did not comply with the applicable California
23 Building Code (CBC).
24

25 19. When Plaintiff visited the Property, she experienced access barriers
26 related to parking, signage, and paths of travel.
27

28 20. Plaintiff encountered the following barriers, conditions, and/or

1 violations at the Property:

2
3
4 **There are several designated disabled parking spaces on this Property,**
5 **yet not a single one is compliant. The spaces have faded paint, missing**
6 **signage, slopes, and non-compliant adjacent loading/unloading access**
7 **aisles. The spaces also do not measure the correct width/length**
8 **dimensions. There is not a single accessible path of travel leading to the**
9 **building/business entrance. Plaintiff, a wheelchair user is at risk of**
10 **injury due to the many slopes and pavement distresses in the paths. The**
11 **path of travel from the designated disabled parking spaces is not**
12 **marked, therefore, this makes it difficult for other drivers to see her.**
13 **There are other inaccessible/non-compliant elements such as restrooms**
14 **and signage.**

15
16
17
18
19
20 **VIOLATION of 1991 ADAS § 4.3.2(1); 2010 ADAS § 206.2.1; 2010 CBC**
21 **§ 1114B.1.2; 2019 CBC § 11B-206.2.1. (Exterior route of travel.) An**
22 **accessible route of travel is not provided to all entrances and portions of the**
23 **building, to all entrances of the Property, and/or between the building and a**
24 **public way. Plaintiff needs a dedicated path of travel, free of obstructions**
25 **and vehicles, where (on which) Plaintiff can travel. It is dangerous for**
26
27
28

1 Plaintiff to navigate without a safe, protected, accessible route of travel; thus,
2 the violation interferes with Plaintiff's ability to fully access the premises.
3
4

5 **VIOLATION of 1991 ADAS §§ 4.1.2(1), 4.3.2(1); 2010 ADAS §§ 206.1,
6 206.2, 206.2.1, 206.2.2, 206.2.4; 2010 CBC § 1114B.1.2; 2010 CBC §
7 1127B.1; 2019 CBC §§ 11B-206.2.1, 11B-206.2.2, 11B-206.2.4.**

8
9 (Accessible route of travel.) At least one accessible route shall be provided
10 within the site from accessible parking spaces and accessible passenger
11 loading zones; public streets and sidewalks; and public transportation stops to
12 the accessible building or facility entrance they serve. At least one accessible
13 route shall connect accessible buildings, accessible facilities, accessible
14 elements, and accessible spaces that are on the same site. The requisite
15 accessible route of travel is not provided. Plaintiff needs an accessible route
16 of travel, with level and smooth ground, free of obstructions and vehicles,
17 whereupon Plaintiff can ambulate. It is dangerous for Plaintiff to travel these
18 areas without a safe, protected, accessible route of travel; thus, the violation
19 interferes with Plaintiff's ability to fully access the premises. The lack of a
20 safe and accessible route, with a smooth and level surface, denied Plaintiff
21 full and equal use or access during each of Plaintiff's visits by making it
22 difficult/ harder for Plaintiff to traverse.
23
24
25
26
27
28

1
2 **VIOLATION of 1991 ADAS § 4.1.2(7); 2010 ADAS § 216.6; 2010 CBC §**
3
4 **1127B.3; 2019 CBC § 11B-216.6.** (Directional signage.) There is no
5 directional signage showing an accessible path of travel to an accessible
6 entrance. Plaintiff faces an increased risk of injury if Plaintiff is required to
7 backtrack because Plaintiff cannot find an accessible entrance into the
8 business/building. Thus, Plaintiff requires clear signage directing him to any
9 accessible entrance(s). Accessible entrances should be marked with an
10 International Symbol of Accessibility.
11

13
14 **VIOLATION of 1991 ADAS § 4.6.4; 2010 ADAS § 502.6; 2010 CBC §**
15
16 **1129B.4; 2019 CBC § 11B-502.6.** (Sign missing – accessible parking
17 space.) The sign identifying the designated disabled parking space(s) is/was
18 missing. Plaintiff needs to park in the space that is nearest to the
19 building/business entrance and designated for disabled patrons. Plaintiff
20 needs to be able to use an accessible parking space, with an access aisle, to
21 safely access the Property. Clear signage will (better) deter others without
22 disabilities from parking in the space; and will thus decrease the chances that
23 he will be blocked from being able to use it.
24
25
26
27
28

VIOLATION of 1991 ADAS § 4.6.4; 2010 ADAS § 502.6; 2010 CBC § 1129B.4; 2019 CBC § 11B-502.6.2. (Sign missing – “Minimum Fine \$250.”)

There was no sign warning of the minimum fine of \$250 for unauthorized parking posted in front of the right designated disabled parking space(s). Plaintiff needs to park in the space that is closest to the business entrance and designated for disabled persons. Clear signage that distinctly warns of the penalties for unauthorized parking in the designated disabled parking space will deter others without disabilities from parking in the space and thereby blocking Plaintiff from being able to use it.

VIOLATION of 2010 ADAS §§ 206.1, 206.2, 206.2.1, 206.2.2, 206.2.4; 2010 CBC § 1127B.1; 2019 CBC §§ 11B-206.2.1, 11B-206.2.2, 11B-206.2.4. (Path of travel into building entrances.) There is no accessible path of travel into the building entrance. Plaintiff needs a dedicated path of travel, free of obstructions and vehicles, where (on which) Plaintiff can safely travel. It is dangerous for Plaintiff to without a safe, protected, accessible path of travel; thus, the violation interferes with Plaintiff's ability to fully access the premises.

VIOLATION of 1991 ADAS § 4.3.7; 2010 ADAS § 403.3; 2019 CBC §

1 **11B-403.3.** (Route/path of travel – cross slopes.) The cross slopes of the
2 route/path of travel are greater than two percent (2%). It is difficult for
3 Plaintiff to travel on surfaces with excess slopes. Plaintiff is at risk of falling
4 when there are surfaces with excess slopes. The presence of excess slopes
5 denied Plaintiff full and equal use or access during Plaintiff's visits by
6 making it difficult and/or uncomfortable for Plaintiff to traverse the
7 property/route. The barrier also deterred/deters Plaintiff from visiting the
8 Property because it would make it difficult and/or uncomfortable for Plaintiff
9 to traverse the property/route.
10
11

12
13
14 **VIOLATION of 1991 ADAS §§ 4.5.2, 4.6.8; 2010 ADAS §§ 302.1, 303.1,**
15 **303.2, 303.3, 303.4; 2010 CBC §§ 1120B.2, 1133 B.7.1, 1133B.7.4; 2019**
16 **CBC §§ 11B-303.1, 11B-303.2, 11B-303.3, 11B-303.4, 11B-303.5.** (Abrupt
17 changes in level; uneven ground surface.) Floor and ground surfaces shall be
18 stable, firm, and slip resistant. Changes in level of 1/4 inch high maximum
19 shall be permitted to be vertical and without edge treatment. Changes in
20 level between ¼-inch high minimum and ½-inch high maximum shall be
21 beveled with a slope not steeper than 1:2. Changes in level greater than 1/2
22 inch high shall be ramped. The route of travel, including from the designated
23 disabled parking space(s) to the entrance of the building/business, have an
24
25
26
27
28

1 uneven ground surface with changes in level exceeding one-half inch (1/2")
2 (and no ramps are provided). The route of travel has damaged ground which
3 is not flush or flat. The ground has pavement distresses. These pavement
4 distresses are made worse and exacerbated by design elements which do not
5 follow the ADAAG. These areas should be fixed immediately because they
6 pose a tripping and/or falling hazard. Plaintiff, a cannot safely and fully
7 enjoy the premises when such conditions are present. These excess changes
8 in level and uneven ground surfaces pose risks to Plaintiff, including that
9 Plaintiff's foot, may catch on the uneven ground causing Plaintiff to fall.
10 These abrupt changes in level pose an increased risk of danger to Plaintiff, as
11 Plaintiff is more likely to trip/fall than someone without disabilities. The
12 excess changes in level (i.e., uneven ground) denied Plaintiff full and equal
13 use or access during each of Plaintiff's visits by making it difficult/harder
14 and more dangerous for Plaintiff to traverse the property/route. The excess
15 changes in level (i.e., uneven ground) also deterred/deters Plaintiff from
16 visiting the Property because it would be difficult/harder and more dangerous
17 for Plaintiff to traverse the property/route.

18
19
20
21
22
23
24
25 **VIOLATION of 1991 ADAS § 4.29.5; 2010 CBC § 1133B.8.5; 2019 CBC**
26
27 **§ 11B-247.1.2.5. (Hazardous Vehicular Area.)** The path of travel crosses a

1 vehicular way, but the walking surface is not separated by curbs, railings, or
2 a continuous detectable warning. There is no safe way for Plaintiff to travel
3 from the designated disabled parking space(s) to the business/building
4 entrance. Plaintiff is forced to travel a dangerous route, behind parked cars
5 and in the vehicle drive to the business entrance. Plaintiff faces an increased
6 risk of injury if Plaintiff has to travel in the path of vehicles because it is
7 more difficult for drivers to see Plaintiff, and Plaintiff cannot quickly move
8 out of the way of an oncoming vehicle. Thus, Plaintiff requires a safe path
9 away from other vehicles. The safe, accessible path must be clearly marked
10 so that Plaintiff can find it.

14

15

16 **VIOLATION of 1991 ADAS § 4.6.3; 2010 ADAS § 502.2.; 2010 CBC §§**

17 **1129B.3, 1129B.4; 2019 CBC §§ 11B-502.2, 11B-502.6.4.1, 502.6.4.2.**

18 (Faded paint – accessible parking space lines.) The paint used for the
19 designated disabled parking space is so worn and aged that it cannot (can
20 hardly) be seen. This makes it unclear where the actual designated disabled
21 parking space is, and it makes it difficult for Plaintiff to use the space.
22
23 Plaintiff needs to be able to use the designated disabled parking space, which
24 should be located closest to the entrance and linked to an accessible route of
25 travel, because it is more difficult for Plaintiff as opposed to non-disabled
26
27

28

1 persons, to maneuver about the Property. When the paint for the designated
2 disabled parking space is worn and aged, there is a greater risk that non-
3 disabled patrons will park in the designated disabled parking space,
4 preventing Plaintiff from using it and accessing the business.
5
6
7

8 **VIOLATION of 2010 ADAS § 502.2; 2010 CBC § 1129B.3; 2019 CBC §**
9 **11B-502.2.** (Width of designated disabled parking space.) The designated
10 disabled parking space measured/measures less than nine feet (9') wide,
11 which made (would make) it difficult for Plaintiff to use the designated
12 space, and which denied (would deny) plaintiff full and equal use and access
13 of the full width of the required space. The paint used for the accessible
14 parking space lines are so faded and worn that it is difficult to identify the
15 actual dimensions of the space. Plaintiff cannot safely disembark from the
16 vehicle when adequate space is not provided. Plaintiff needs to be able to
17 use the designated disabled parking space, which should be located closest to
18 the entrance and linked to an accessible route of travel, because it is more
19 difficult for Plaintiff, as opposed to non-disabled persons to maneuver about
20 the Property.
21
22
23
24
25
26
27
28

1 **VIOLATION of 2010 ADAS § 502.2; 2010 CBC § 1129B.3; 2019 CBC §**
2 **11B-502.2.** (Length of designated disabled parking space.) The designated
3 disabled parking space measures/measured less than eighteen feet (18') long,
4 which made (would make) it difficult for Plaintiff to use the designated
5 space, and which denied (would deny) plaintiff full and equal use and access
6 of the full length of the required space. The paint used for the accessible
7 parking space lines are so faded and worn that it is difficult to identify the
8 actual dimensions of the space. Plaintiff cannot safely park and disembark
9 from the vehicle when adequate space is not provided. Plaintiff needs to be
10 able to use the designated disabled parking space, which should be located
11 closest to the entrance and linked to an accessible route of travel, because it
12 is more difficult for Plaintiff, as opposed to non-disabled persons, to
13 maneuver about the Property.
14
15
16
17

18
19
20 **VIOLATION of 1991 ADAS § 4.6.3; 2010 ADAS § 502.3.2; 2010 CBC §**
21 **1129B.3; 2019 CBC § 11B-502.3.2.** (Length of adjacent access aisle.) The
22 access aisle adjacent to the designated disabled parking space is/was less than
23 eighteen feet (18') long (which is also the required length of the designated
24 disabled parking space), which denied (would deny) plaintiff full and equal
25 use and access of the full length of the required access aisle. Plaintiff needs
26
27
28

1 extra space to be able to safely exit the vehicle. When the access aisle is too
2 small, Plaintiff has difficulty disembarking from the vehicle, which poses a
3 greater risk of injury to Plaintiff and can also cause humiliation and/or
4 frustration.

5

6

7 **VIOLATION of 1991 ADAS § 4.6.3; 2010 ADAS § 502.3.1; 2010 CBC §**

8 **1129B.3; 2019 CBC 11B-502.3.1. (Width of adjacent access aisle.)** The
9 loading/unloading access aisle adjacent to the designated disabled parking
10 space is/was less than five feet (5') wide, which denied (would deny) plaintiff
11 full and equal use and access of the full width of the required access aisle.
12 Plaintiff needs extra space to be able to safely exit the vehicle. When the
13 access aisle is too small, Plaintiff has difficulty disembarking from the
14 vehicle, which poses a greater risk of injury to Plaintiff and can also cause
15 humiliation and/or frustration.

16

17

18 **VIOLATION of 1991 ADAS § 4.6.3; 2010 ADAS § 502.4; 2016 CBC §§**

19 **11B-502.4, 11B-502.3.3; 2010 CBC § 1129B.3.4. (Slope of designated**
20 **disabled parking spaces.)** The designated disabled parking spaces have
21 slopes and cross slopes that are greater than two percent (2%). Given
22 Plaintiff's mobility issues, Plaintiff needs to be able to traverse on a level
23

1 surface. Sloped ground surfaces pose risks to Plaintiff, including that
2 Plaintiff's feet may catch on the sloped ground, causing Plaintiff to fall.
3
4

5 **VIOLATION of 1991 ADAS § 4.6.3; 2010 ADAS § 502.4; 2010 CBC §**
6 **1129B.3.3; 2019 CBC § 11B-502.4.** (Slopes of adjacent access aisle.) The

7 loading/unloading access aisle adjacent to the designated disabled parking
8 spaces has surface slopes greater than two percent (2%). Given Plaintiff's
9 mobility issues, Plaintiff needs to be able to traverse on a level surface.
10
11

12 Sloped ground surfaces pose risks to Plaintiff, including that Plaintiff's feet
13 may catch on the sloped ground, causing Plaintiff to fall.
14
15

16 **VIOLATION of 1991 ADAS § 4.6.3; 2010 ADAS § 502.3; 2010 CBC §**
17 **1129B.3.1; 2019 CBC § 11B-502.3.** (No loading/unloading access aisle.)

18 The loading/unloading access aisle which is required to be adjacent to the
19 designated disabled parking space is/was essentially missing. There were a
20 few barely visible lines, which may have been the remnants of a once painted
21 access aisle, but which did not constitute or depict a compliant access aisle.
22
23

24 This made it difficult for Plaintiff to use the space (i.e., the barely visible
25 former access aisle) to safely disembark from the vehicle. The barrier denied
26 (would deny) Plaintiff full and equal use or access, by depriving Plaintiff of
27
28

1 an aisle which is required to be properly striped/ marked for Plaintiff's use
2 (i.e., for the use of disabled persons as opposed to nondisabled persons).
3 Plaintiff requires sufficient space to safely disembark with her mobility
4 device(s) away from other vehicles. Also, when an access aisle is not clearly
5 painted, there is a greater chance that non-disabled individuals will park in
6 the access aisle, blocking Plaintiff's use thereof.
7
8

9
10 **VIOLATION of 2010 CBC § 1129B.4; 2019 CBC § 11B-502.6.4. (Parking**

11
12 space ground surface signage.)

13 The paint used for the designated disabled
14 parking space is faded and cannot (can hardly) be seen; thus, there is no
15 compliant surface signage at the designated disabled parking space. The
16 International Symbol of Accessibility is so faded and worn that it can hardly
17 be seen. This makes it difficult for Plaintiff and other patrons to identify or
18 locate the designated disabled parking space. When the paint for the
19 International Symbol of Accessibility is so faded and worn, there is a greater
20 risk that non-disabled patrons will park in the designated disabled parking
21 space, preventing Plaintiff from using it and accessing the business. Plaintiff
22 needs to be able to park in the space that is nearest to the entrance and
23 designated for disabled patrons. Plaintiff needs to be able to use an
24 accessible parking space, with an access aisle, to safely access the Property.
25
26
27
28

1 Clear surface signage that explicitly marks the designated disabled parking
2 space will deter others without disabilities from parking in the space, so that
3 the space can be available for Plaintiff's use.
4
5
6
7

8 **VIOLATION of 2010 ADAS § 502.3.3; 2010 CBC § 1129B.3.1; 2019**
9 **CBC § 11B-502.3.3.** ("NO PARKING" – ground surface signage.) The
10 words "NO PARKING," which are required to be painted in the loading/
11 unloading access aisle, were/are missing (and/or were completely faded such
12 that the words were no longer visible). As a result, non-disabled patrons
13 parked in the loading/unloading access aisle, blocking Plaintiff from being
14 able to use the access aisle. Plaintiff needs extra space to be able to safely
15 exit the vehicle. Plaintiff has difficulty disembarking the vehicle, which
16 poses a greater risk of injury to Plaintiff and can cause humiliation and/or
17 frustration. Plaintiff cannot access the Property safely if Plaintiff cannot use
18 an accessible parking space and adjacent access aisle.
19
20
21
22
23

24 **VIOLATION of 1991 ADAS § 4.6.3; 2010 ADAS § 502.3; 2010 CBC §**
25 **1129B.3; 2019 CBC § 11B-502.3.** (Access aisle adjoining accessible route.)
26 The adjacent loading/unloading access aisles must adjoin an accessible route
27
28

1 to an accessible entrance. It does/did not. Plaintiff cannot access the
2 Property safely unless there is an access aisle onto which Plaintiff can
3 disembark from the vehicle. The access aisle must lead to an accessible route,
4 so that Plaintiff can safely travel to and enter the business. There is no safe
5 route of travel from the designated disabled parking space to the business
6 entrance. The barrier deterred/deters Plaintiff from visiting the property
7 because the lack of a safe and accessible route would make it difficult,
8 uncomfortable, and/or unsafe for Plaintiff to traverse around the property,
9 including to travel from the designated disabled parking space to the building
10 entrance.
11
12

13
14
15
16 **VIOLATION of 1991 ADAS §§ 4.3.7, 4.8.1; 4.8.4(2), 4.8.4(3); 2010 ADAS**
17 **§ 403.3; 2010 CBC §§ 1133B.5.4.2, 1133B.5.4.6; 2019 CBC § 11B-403.3.**
18 (Excess slopes; no compliant ramp.) The route(s) of travel has/have slopes
19 greater than 1:20 (5%), but there is no compliant ramp (with appropriate
20 level ramp landings at the top and bottom of each ramp). It is difficult for
21 Plaintiff to traverse on sloped surfaces that do not provide the safety features
22 of a compliant ramp. These excess changes in level pose risks to Plaintiff,
23 including that Plaintiff may fall. The lack of a compliant ramp, with its
24 attendant safety/accessibility features, denied Plaintiff full and equal use or
25
26
27
28

1 access during his visits by making it difficult/harder for Plaintiff to traverse
2 the property/route.
3
4

5 **VIOLATION of 2010 CBC § 1133B.5.2; 2019 CBC § 11B-405.5.**

6 (Minimum width of ramps.) The route of travel has slopes greater than 1:20
7 (5%), but there is no compliant ramp. There is no compliant ramp with a
8 minimum width of forty-eight inches (48"). Plaintiff requires adequate space
9 to navigate on sloped surfaces and/or ramps and Plaintiff cannot do so
10 without a ramp of sufficient width. The lack of a complaint ramp, of the
11 requisite width, denied Plaintiff full and equal use or access during Plaintiff's
12 visits by making it difficult/ harder for Plaintiff to traverse the property/route.
13 The lack of a complaint ramp, of the requisite width, also deterred/deters
14 Plaintiff from visiting the Property because it would be difficult/harder for
15 Plaintiff to traverse the property/route.
16
17

18 **VIOLATION of 1991 ADAS § 4.8.2; 2010 CBC § 1133B.5.3. (Least**

22 possible slope of ramp.) There is no compliant ramp, with the least possible
23 slope, leading into the business. The curb ramp exceeds the maximum
24 running slope allowable. Plaintiff has difficulty traveling on slopes that are
25 not compliant ramps.
26
27

21. Plaintiff personally encountered the foregoing barriers, conditions, and/or violations.

22. These barriers, conditions, and/or violations denied Plaintiff full and equal access, and caused her difficulty, humiliation, and/or frustration.

23. Plaintiff personally encountered the foregoing barriers on (and the foregoing barriers existed during) each and every one of her visits in 2021.

24. Defendants knew that the foregoing architectural barriers prevented access. Plaintiff will prove that Defendants had actual knowledge that the architectural barriers prevented access, and that the noncompliance with the ADA Standards for Accessible Design (ADAS), ADA Accessibility Guidelines for Buildings and Facilities (ADAAG), and/or the California Building Code (CBC) was intentional.

25. Plaintiff intends and plans to visit the Property again soon. Currently, Plaintiff is reasonably deterred from returning to Defendants' public accommodation facilities because of the knowledge of barriers to equal access, relating to Plaintiff's disabilities, that continue to exist at the Property.

26. Defendants have failed to maintain in working and useable condition those features necessary to provide ready access to persons with disabilities.

1 27. Defendants have the financial resources (i.e., financial ability) to
2 remove these barriers without much expense or difficulty in order to make the
3 Property more accessible to their mobility impaired customers (i.e., disabled
4 persons). The removal of these barriers is readily achievable. The United States
5 Department of Justice has determined that removal of these types of barriers is
6 readily achievable.

7 28. Defendants refuse to remove these barriers.

8 29. On information and belief, Plaintiff alleges that Defendants' failure to
9 remove these barriers was/is intentional, because the barriers are logical and
10 obvious. During all relevant times, Defendants had authority, control, and
11 dominion over these conditions. Thus, the absence of accessible facilities was/is
12 not a mishap; it was/is the result of intentional actions or inaction.

13 30. These barriers to access are described herein without prejudice to
14 Plaintiff citing additional barriers to access after further inspection by Plaintiff's
15 agents and/or experts. *See Doran v 7-ELEVEN, Inc.*, 524 F.3d 1034 (9th Cir. 2008)
16 (holding that once a plaintiff encounters one barrier at a site, a plaintiff can sue to
17 have all barriers that relate to his or her disability removed, regardless of whether
18 he or she personally encountered them).

19 //

20 //

**IV. FIRST CAUSE OF ACTION: VIOLATION OF THE
AMERICANS WITH DISABILITIES ACT OF 1990
(42 U.S.C. § 12101, *et seq.*)**

(Against All Defendants)

31. Plaintiff alleges and incorporates by reference each and every allegation contained in all prior paragraphs of this complaint.

32. Title III of the ADA prohibits discrimination against any person on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or operates a place of public accommodation. 42 U.S.C. § 12182(a).

33. Defendants discriminated against Plaintiff by denying her “full and equal enjoyment” and use of the goods, services, facilities, privileges, and/or accommodations they offered during each visit, and each incident of a deterred visit.

34. The acts and omissions of Defendants herein were/are in violation of Plaintiff's rights under the ADA and the regulations codified at 28 C.F.R. Part 36, *et seq.*

35. Pursuant to the ADA, discrimination is a “failure to make reasonable modifications in policies, practices or procedures, when such modifications are

1 necessary to afford goods, services, facilities, privileges, advantages or
2 accommodations to individuals with disabilities, unless the entity can demonstrate
3 that making such modifications would fundamentally alter the nature of such goods,
4 services, facilities, privileges, advantages or accommodations.” 42 U.S.C. §
5 12182(b)(2)(A)(ii).

6
7
8 36. The ADA requires removal of architectural barriers in existing
9 facilities where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv)
10 (“discrimination includes … a failure to remove architectural barriers, and
11 communication barriers that are structural in nature, in existing facilities, … where
12 such removal is readily achievable”). The term “readily achievable” is defined as
13 “easily accomplishable and able to be carried out without much difficulty or
14 expense.” 42 U.S.C. § 12181(9). Barriers are defined by reference to the ADA
15 Standards for Accessible Design (ADAS), found at 28 C.F.R. Part 36, including the
16 ADA Accessibility Guidelines for Buildings and Facilities (ADAAG), at Part 36,
17 Appendix A.

18
19
20
21 37. If removal of any barrier is not readily achievable, a failure to make
22 goods, services, facilities, or accommodations available through alternative
23 methods is also prohibited if the alternative methods are readily achievable. 42
24 U.S.C. § 12182(b)(2)(A)(v).

25
26 38. Defendants can remove the architectural barriers at their facility
27
28

1 without much difficulty or expense. Defendants violated the ADA by failing to
2 remove the barriers because removal was readily achievable. For instance, there
3 are companies which can repaint parking areas for as little as \$350. Defendants can
4 afford such costs, which are a fraction of what Defendants receive in (rental or
5 business) profits in connection with such a large and expensive property.
6

7 39. Alternatively, if it was not “readily achievable” for Defendants to
8 remove barriers at their facilities, Defendants violated the ADA by failing to make
9 their services available through alternative methods which are readily achievable.
10

11 40. On information and belief, Plaintiff alleges that the facility was altered
12 after January 26, 1992, mandating compliance with accessibility requirements
13 under the ADA.
14

15 41. The ADA requires that facilities altered in a manner that affects or
16 could affect their usability must be made readily accessible to individuals with
17 disabilities to the maximum extent feasible. 42 U.S.C. § 12183(a)(2).
18

19 42. Defendants altered the facilities at the Property in a manner that
20 violated the ADA, and/or failed to make the Property readily accessible to
21 physically disabled persons to the maximum extent feasible.
22

23 43. The ADA also requires reasonable modifications in policies, practices,
24 or procedures, when such modifications are necessary to afford goods, services,
25 facilities, privileges, advantages, or accommodations to individuals with
26

1 disabilities, unless the entity can demonstrate that making such modifications
2 would fundamentally alter the nature of such goods, services, facilities, privileges,
3 advantages, or accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).

4 44. Defendants violated the ADA by failing to make reasonable
5 modifications in policies, practices, or procedures at the Property when these
6 modifications were necessary to afford (and would not fundamentally alter the
7 nature of) the goods, services, facilities, privileges, advantages, or accommodations.

8 45. Plaintiff seeks a finding from this Court that Defendants violated the
9 ADA, so that she may pursue damages under California's Unruh Civil Rights Act.

10 46. Here Defendants' failure to make sure that accessible facilities were
11 available to, and ready to be used by, Plaintiff was/is a violation of law.

12 47. Plaintiff would like to continue to frequent the Property, which is close
13 to her home. However, she is deterred from doing so because she has been
14 discriminated against and is aware of accessibility barriers at the Property.

15 48. Among the remedies sought, Plaintiff seeks an injunction order
16 requiring compliance with federal and state disability access laws, and remediation
17 of the existing access violations (i.e., removal of the existing barriers) at the
18 Property.

19 //

20 //

21
22
23
24
25
26
27
28

1 **V. SECOND CAUSE OF ACTION: VIOLATION OF THE**
2 **UNRUH CIVIL RIGHTS ACT**
3 **(Cal. Civ. Code §§ 51-53)**

4 (Against All Defendants)

5 49. Plaintiff repleads and incorporates by reference, as though fully set
6 forth herein, the allegations contained in all prior paragraphs of this complaint.

7 50. California Civil Code § 51 states, in part: “All persons within the
8 jurisdictions of this state are entitled to the full and equal accommodations,
9 advantages, facilities, privileges, or services in all business establishments of every
10 kind whatsoever.”

11 51. California Civil Code § 51 also states, in part: “No business
12 establishment of any kind whatsoever shall discriminate against any person in this
13 state because of the disability of the person.”

14 52. California Civil Code § 51(f) specifically incorporates, by reference,
15 an individual’s rights under the ADA into the Unruh Civil Rights Act (UCRA).

16 53. The UCRA also provides that a violation of the ADA, or California
17 state accessibility regulations, is a violation of the UCRA. Cal. Civ. Code § 51(f);
18 *see Arnold v. United Artists Theatre Circuit, Inc.*, 866 F. Supp. 433, 439 (N.D. Cal.
19 1994).

20 54. Defendants’ above-mentioned acts and omissions have violated the

1 UCRA by denying Plaintiff her rights to full and equal use of the accommodations,
2 advantages, facilities, privileges, and services they offer, on the basis of Plaintiff's
3 disability.

5 55. Defendants' above-mentioned acts and omissions have also violated
6 the UCRA by denying Plaintiff her rights to equal access pursuant to the ADA; and,
7 thus, Defendants are liable for damages. *See* Cal. Civ. Code § 51(f), 52(a).

9 56. Because Defendants' violation of the UCRA resulted in difficulty,
10 discomfort, and/or embarrassment for Plaintiff, Defendants are each also
11 responsible for statutory damages. *See* Cal. Civ. Code § 55.56(a), (c).

13 //

14 //

16 //

17 //

18 //

20 //

21 //

23 //

24 //

25 //

27 //

57. Plaintiff was (actually) damaged by Defendants' wrongful conduct. She seeks actual damages, and statutory minimum damages of four thousand dollars (\$4,000) for each offense (i.e., for each occasion that Plaintiff was denied full and equal access).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

1. For injunctive relief compelling Defendants to comply with the Americans with Disabilities Act and the Unruh Civil Rights Act. Note: Plaintiff is not invoking section 55 of the California Civil Code and is not seeking injunctive relief under the Disabled Persons Act.
 2. Damages under the Unruh Civil Rights Act, which provides for actual damages and statutory minimum damages of \$4,000 per each offense.
 3. Reasonable attorney fees, litigation expenses, and costs of suit, pursuant to 42 U.S.C. § 12205, and Cal. Civ. Code § 52.

DEMAND

Plaintiff demands a bench trial on all issues so triable.

Dated: May 17, 2022

THE LAW OFFICE OF HAKIMI & SHAHRIARI

By: /s/ Peter Shahriari

PETER SHAHRIARI, ESQ.

Attorney for Plaintiff LaSandra Price